

AN ACT

RELATING TO DENTISTRY; CREATING THE STATE BOARD OF DENTAL EXAMINERS, DEFINING ITS POWERS AND DUTIES, PROVIDING FOR LICENSES AND PENALTIES, AND REPEALING CHAPTER 11, SESSION LAWS 1929.

Be it enacted by the Legislature of the State of Arizona:

Sec. 67-901. **Short title.** This act shall be known and may be cited as "the dental act of 1935."

Sec. 67-902. **Definitions.** As used in this act, unless otherwise required by the context:

(a) "The board" shall mean the Arizona state dental board.

(b) "Recognized dental school" shall mean a dental school maintaining standards of entrance, study, and graduation approved by the board as satisfactory.

(c) "Dentistry", "dentist", and "dental" shall include and embrace "orthodontia", "orthodontist", and "orthodontic" respectively.

Sec. 67-903, Arizona Code of 1939, is amended (1949) to read:

Sec. 67-903. **Who deemed to be practicing dentistry.** A person shall be deemed to be practicing dentistry who, by himself or by an agent, employee, servant, or contractor, and, with specific reference and application to the teeth, gums, jaws, oral cavity, or tissues adjacent thereto, in living persons, shall do or propose, agree, or attempt to do, or make an examination or give an estimate of cost with intent to:

(a) Perform an operation or administer an anesthetic in connection therewith;

(b) Diagnose or treat any condition, disease, or lesion;

(c) Take an impression;

(d) Correct a malposition;

(e) Treat a fracture;

(f) Remove calcareous deposits;

(g) Replace missing anatomy with an artificial substitute;

(h) Construct, make, alter, or repair an artificial substitute or restorative or corrective appliance;

(i) Do any other remedial, corrective, or restorative work.

Sec. 67-904. **Practicing without license a misdemeanor.** Except as otherwise provided, any person who, without a valid license as prescribed in this act, shall: (a) Practice dentistry or any branch thereof; (b) in any manner or by any means, direct or indirect, advertise, represent, or hold himself out as engaged or ready and willing to forthwith engage in such practice; (c) manage, maintain, or carry on,

business, office, or institution for such practice of dentistry or which is advertised, represented, or in any capacity or by any arrangement, a practice, held out to the public as such, shall be guilty of a misdemeanor.

Sec. 67-905, Arizona Code of 1939, is amended (1949) to read:

Sec. 67-905. **Exceptions.** Nothing in this Act shall be construed to prohibit:

(a) A dentist officially employed in the service of the United States from practicing dentistry in his official capacity, within the scope of his authority, upon persons enlisted in, directly connected with, or under the immediate control of some branch of service of the United States;

(b) A bona fide interne or student of dentistry from operating in the clinical departments or laboratories of a recognized dental school or hospital;

(c) An unlicensed person from performing for a licensed dentist merely mechanical work upon inert matter in the construction, making, alteration, or repairing of any artificial dental substitute or any dental restorative or corrective appliance, when the casts or impressions for such work have been furnished by a licensed dentist and the work is directly supervised by the dentist for whom done or under a written authorization signed by him, but the burden of proving such written authorization or direct supervision shall be upon the person charged with the violation of this provision;

(d) A clinician not licensed in this state from giving demonstrations, before bona fide dental societies and study clubs, that are free to the persons on whom made.

(e) Nor to abridge a license issued under the laws of this state relating to medicine or surgery.

Sec. 67-906. **Creation of board; terms, present members to serve; appointments.** The Arizona state dental board is hereby created. Said board shall consist of five members, to be appointed by the governor as hereinafter provided. The term of office of members of the board shall be five years and shall be so arranged that one term shall expire on January 1 of each year. The members of the board of dental examiners, serving at the time this act becomes effective shall be the members of the board until the expiration of the terms for which they were respectively appointed. All vacancies shall be filled by the governor from a list of ethical practitioners recommended for appointment by the Arizona state dental society, over the signatures of its president and secretary. The governor may request such additional lists as he may deem expedient.

Sec. 67-907. **Removal from office.** The governor may remove a member of the board for per-

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sistent neglect of duty, incompetency, unfair, biased, partial, or dishonorable conduct, or gross immorality. Conviction of a felony or revocation of the dental license of a member of the board shall ipso facto terminate such membership.

Sec. 67-908, Arizona Code of 1939, is amended (1949) to read:

Sec. 67-908. **Organization and meetings.** The board shall elect from among its members a president and one as secretary, who shall act also as treasurer. Meetings of the board may be called by the president or by a majority of the members, by mailing a written notice of the time, place, and object of the meeting to all members not parties to the call at least fifteen days before the day of meeting. Each member shall file his mailing address with the secretary and give written notice of any change. The board shall meet not less than once in each calendar year for the examination of applicants to practice dentistry.

Sec. 67-909, Arizona Code of 1939, is amended (1949) to read:

Sec. 67-909. **Compensation of members and secretary.** The board shall fix the compensation of its members, at not to exceed ten dollars for each day actually spent in performing necessary work authorized by the board, in carrying out the purpose of this Act, and actual and necessary traveling expenses. The secretary may in addition be allowed a salary not to exceed twenty-five dollars per month. He shall give a surety bond, running to the board, in the penal sum of two thousand dollars; conditioned upon the faithful performance of his duties, the premium on which shall be a charge against the dental board fund. Provided however, that all expenditures, which the board is authorized to make shall be limited to ninety per cent of the total revenue of the said board, and that no part of the expenses, charges or expenditures of the dental board shall ever be or become a charge against any fund of the state.

Sec. 67-910, Arizona Code of 1939, is amended (1949) to read:

Sec. 67-910. **Powers and duties of board.** The board shall make rules not inconsistent with this Act for the regulation of its own conduct and the holding of examinations; adopt a seal; keep a record of its proceedings and reports; establish a uniform and reasonable standard of minimum educational requirements to be observed by dental schools in order to be classed as recognized dental schools; pass upon the reputability and classification of dental schools in accordance with their compliance with said standard; pass upon the eligibility of applicants for examination, examine such as are found eligible, and issue licenses to those who sat-

isfactorily pass the examination; investigate charges of misconduct on the part of licensees; revoke licenses as the facts may warrant and reinstate licenses in proper cases; collect and disburse mon-
eys, and perform all other duties and things neces-
sary to carry out the purposes of this Act which
are not specifically or by necessary implication
delegated to some other person or persons.

The board may sue and be sued, and shall have the power to compel the attendance of witnesses, administer oaths, and take testimony concerning all matters coming within its jurisdiction. If any person refuses to obey a subpoena issued by the board, such refusal shall be certified to the superior court of Maricopa county and proceedings instituted for contempt of court.

Authority is hereby granted for the board to become a member and participate in the activities of the American Association of Dental Examiners and to pay from the dental board fund all fees and dues normally incident to membership in said association. Authority is also granted for one member of the board to be chosen by a majority vote of the board to attend the annual meeting of said association, and said member shall be reimbursed from the dental board fund for all necessary travel expense and for the per diem allowance authorized by law.

Sec. 67-911, Arizona Code of 1939, is amended (1949) to read:

Sec. 67-911. Board to assist in prosecution of violations. The dental board or any member thereof, as well as any other person, may prefer complaints for violations of this Act before any court of competent jurisdiction. The attorney general, upon request, shall act for the board in all matters requiring legal assistance, but the board may employ other or additional counsel in its own behalf. It shall be the duty of the board to assist prosecuting officers in the enforcement of this Act, and in so doing may engage suitable persons to assist in investigations and in the procurement and presentation of evidence. Subpoenas or other orders issued by the board may be served by any officer empowered to serve processes, who shall receive the fees prescribed by law. Expenditures made in carrying out the provisions of this section shall be paid out of the dental board fund.

Sec. 67-912. Board records admitted in evidence. A copy of any part of the recorded proceedings of the board certified by its secretary, or a certificate by him that any asserted or purported record, name, license number, or action is not entered therein, shall be admitted as evidence in any of the courts of this state. Any person making application therefor and paying a fee of twenty-five

cents per folio and fifty cents for each certification, may procure from the secretary a certified copy of any portion of the records of the board.

Sec. 67-913. Previous licenses to remain in force. All dental licenses in force at the time this act takes effect shall remain in force subject to the provisions of this act, and shall be recognized as entitling the holders to practice dentistry in all its branches, and any orthodontic license issued under the provisions of any dental law of this state shall be recognized as entitling the holder to practice orthodontia.

Sec. 67-914. Recognition of national licenses. The board shall have authority to recognize a license issued by a national board of dental examiners approved by the American Dental Association, or may, without examination, upon payment of the examination fee, issue to the holder a license to practice in this state.

Sec. 67-915. Secretary of State to keep dental register. The secretary shall furnish the secretary of state with a certified list of dentists legally licensed at the time this act becomes effective, and thereafter shall promptly notify him of the issuance, forfeiture, revocation, or reinstatement of any license or of any other change in the status of a person affecting his right to practice. The secretary of state shall record the information in a book to be known as the "dental register", which he shall keep in his office for the inspection of the public.

Sec. 67-916. Dental board fund. The secretary shall monthly transmit to the state treasurer all fees, fines and other revenue received by the board, accompanied by a statement showing the source thereof. The treasurer shall place ten per cent (10%) of all such receipts to the credit of the general fund for the support and maintenance of the state government. The balance of all fees, fines and other revenue, to-wit: Ninety per cent (90%) of the total of all revenue received by the board shall be placed by the state treasurer to the credit of the "dental board fund." All administrative expenses of the board authorized by this act, and all expenditures of the board in connection with the enforcement of this act shall be paid out of the dental board fund. (As Amended 1945, Ch. 45).

Sec. 67-917. Annual registration, forfeiture of license, reinstatement. On or before July 1 of each year, beginning with July 1, 1945, every licensed dentist shall pay an annual registration fee of not to exceed five dollars (\$5.00). Said fee shall be five dollars (\$5.00) for the fiscal year beginning July 1, 1945, and for each succeeding fiscal year until changed by order of the board. Failure to pay said annual registration fee shall ipso facto work a forfeiture of lincese, but upon written appli-

cation and payment within the fiscal year of such forfeiture, of a fine of ten dollars (\$10.00), or if after such fiscal year, of a fine equal to the examination fee current at the time of application, the board shall, without examination, reinstate said license. Whenever issued, such reinstatement shall be as of the date of application, and shall entitle the applicant to an annual registration receipt only for such fiscal year. (As Amended 1945, Ch. 45.)

Sec. 67-918, Arizona Code of 1939, is amended 1949 to read:

Sec. 67-918. Eligibility for examination; application; fee. To be eligible for examination, a candidate for a license to practice dentistry must be at least twenty-one years of age, of good moral character, a citizen of the United States, and the holder of a diploma issued to him by a recognized dental school, or in lieu of such diploma must have been for at least five consecutive years immediately prior to such application duly licensed and engaged in the active, legal practice of dentistry in a state or territory of the United States or a foreign country in which the standards of dental education and practice are acceptable to the board. Any such candidate shall make written application to the secretary and accompany the same with the examination fee, to be fixed by the board, not exceeding fifty dollars, which fee shall in no case be refunded if the applicant is found to be eligible, and shall otherwise comply with all of the requirements, rules and regulations of the board.

An applicant for said examination who shall have previously failed in three examinations shall in addition to the qualifications set forth herein, as a condition of eligibility to take further examinations, furnish to the board satisfactory evidence of having at least one additional year of graduate work at a reputable dental college approved by the board, in subjects approved by the board, and which year of additional instruction shall have been since the time of failing in the third examination.

Sec. 67-919, Arizona Code of 1939 as amended 1949 to read:

Sec. 67-919. Examinations; papers open to inspection. Examinations shall be upon subjects included in the curricula of recognized dental schools and shall be both theoretical and practical. Any board member participating in an examination being given by the board shall have the right to examine the candidate in any subjects included in the examination. The theoretical examination shall be written in the English language and may be supplemented by an oral examination at the discretion of the board. The practical examination shall consist of laboratory technique and clinical demonstrations. The theoretical and practical ex-

aminations shall be graded at fifty per cent each, but the board, in its discretion, may allow applicants who have been for more than five years engaged in the practice of dentistry a greater percentage, not over seventy-five, according to the number of years of practice, for the practical examination. The board may delegate any part of the written theoretical examination to any properly qualified examining body created by the laws of this state, and may require that an applicant shall accompany his application with a certificate showing that he has successfully passed the examination of said examining body in the subject matter assigned to it. All examination papers shall be kept by the secretary and open to inspection at reasonable times by members of the board, by the applicant or an authorized agent, or by a court of competent jurisdiction in a proceeding in which the question of the contents of such papers is properly involved, for a period of ninety days from the date on which the examinations are begun, and may then be destroyed. Such examination papers shall be deemed to be the property of the board and shall not be removed from its possession without its consent.

Sec. 67-920, Arizona Code of 1939, is amended 1949 to read:

Sec. 67-920. Revocation of license. The dental board shall, after hearing as hereinafter provided, revoke the license issued to any person under the provisions hereof for any of the following causes:

1. Physical or mental incompetency to practice his profession.

2. Fraud or misrepresentation in procuring a license.

3. Gross immorality.

4. The habitual use of intoxicating liquors or drugs to such an extent as to render him unfit for practice.

5. The commission of a felony or any crime involving moral turpitude, either before or after conviction in a court.

6. For unprofessional conduct. Unprofessional conduct means: 1. employing persons known as "cappers" or "steerers" to obtain business; 2. obtaining a fee by fraud or misrepresentation; 3. willfully betraying professional secrets; 4. employing unlicensed persons to perform work which can be done legally only by licensed persons; 5. practicing dentistry under a trade or corporate name or false or assumed name other than a partnership name containing the name of one or more of the partners; 6. making use of any advertising statement of a character tending to deceive or mislead the public.

Sec. 67-921. Accusation and hearing. Upon

accusation in writing, duly verified and filed with the board, charging a violation of any provision of the preceding section, the board shall, if the charge appears sufficient and reasonably founded, by an order duly made and entered upon the minutes of the board, fix a time and place for hearing the same, which time shall be not less than ten days after a written copy of the accusation and the order of the board are served upon the accused in person, if he can be found within the state, or if he absents himself from the state or conceals himself within the state for the purpose of evading service, then as the board may direct. At the time and place fixed in said order, the accused may appear in person or by his attorney and answer under oath the charge filed against him and introduce in his behalf such evidence as he may have touching said charge and show cause, if any, why his license should not be revoked. The board may for good cause continue the hearing from time to time. If the accused does not appear, the board may determine the proceedings in his absence. If, after hearing, it shall appear to the satisfaction of the board that the charge has been sustained the license of the accused shall be revoked unless, the licensee, within thirty (30) days thereafter, shall sue out a writ of certiorari in a superior court of the county wherein the licensee maintains his practice of dentistry. The board shall reinstate such licensee upon judgment of the court having jurisdiction of the cause or causes, when such revocation has been removed by the court; provided, that the licensee has paid registration fees for the year of the reinstatement and in any event the license shall not be revoked until the final judgment of the court having jurisdiction of the cause. The successful party to such action shall recover of his adversary all the cost expended or incurred therein except where otherwise provided by law.

Sec. 67-922. **Dentistry to be practiced only under name of licensee; name and license to be displayed; duplicate licenses.** It shall be unlawful to practice dentistry under the name of a corporation. The name of every person practicing dentistry shall be conspicuously displayed at the entrance to the place where he practices. His annual registration receipt for the current calendar year shall be displayed in his place of practice in such manner as to be readily observable at any time by patients or by visitors and shall be exhibited to any member of the board or to any duly authorized agent of the board upon request. The registration receipt for the calendar year immediately preceding shall be kept on display until replaced by the receipt for the current year. During the year in which the licensee is first licensed and until the annual regis-

tration receipt for the following year is received the license itself shall be displayed in lieu of said annual registration receipt. In the case of licensees maintaining more than one place of practice, the board may issue one or more duplicate licenses or annual registration receipts on payment of a fee fixed by the board of not over five dollars for each such duplicate. In the case of a person legally changing his name from that in which his license was originally issued, the board may, upon satisfactory proof of such fact and the surrender of the original license certificate, if obtainable, issue a new license in the new name, charging therefor the established fee for duplicate licenses.

Sec. 67-923. Fraudulent certificates. Any person who shall present to, file, or attempt to file with the board as his own, a diploma, degree, license, certificate, or identification belonging to another, or which is forged or fraudulent, or who shall exhibit or display any such instrument with the intent that it shall be used as evidence of the right of such person to practice dentistry in the state, or who with fraudulent intent shall alter any such instrument or use or attempt to use it when so altered, shall be guilty of forgery. Any person who shall sell or transfer or offer to sell or transfer, or who shall purchase or procure or offer to purchase or procure any diploma, license, certificate, or identification, with intent that the same shall be used as evidence of the right to practice dentistry in this state by a person other than the one to whom it belongs or is issued, shall be guilty of a misdemeanor.

Sec. 67-924. Other violations. Any person who shall employ, contract with, or by any means procure the assistance of, or association with, for the purpose of practicing dentistry, a person not having a valid license therefor, or who shall fail to obey a summons or other order regularly and properly issued by the board, or who shall violate any other provision of this act for which the penalty is not specifically prescribed, shall be guilty of a misdemeanor. In any prosecution or hearing under this act it shall be necessary to prove only a single act of violation and not a general course of conduct, and where such violation is continued over a period of one or more days each day shall constitute a separate violation and shall be subject to the penalties prescribed in this act.

Sec. 67-925, Arizona Code of 1939 is amended (1949) to read:

Sec. 67-925. Penalties. A person convicted of a misdemeanor under this Act shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and

imprisonment, and upon conviction of a subsequent misdemeanor under this Act by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than six months nor more than one year, or by both such fine and imprisonment. All such violations shall be prosecuted by the county attorney and tried before the superior court of the county in which the violation occurs.

In addition to the penalties provided in this Act, the courts of this state are hereby invested with jurisdiction to prevent and restrain violations of this Act as nuisance per se, and the several county attorneys in the respective counties shall, and the board may, institute proceedings in equity to prevent and restrain violations. Any person damaged, or who is threatened with loss or injury, by reason of a violation of this Act, shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation of this Act.

Sec. 67-926, Arizona Code of 1939, is amended 1949 to read:

Sec. 67-926. **Annual report.** Not later than August 1, the board shall make an annual report in writing to the governor for the preceding year, which shall set forth the number of licensed dentists in the state, the number of licenses issued during the preceding year and to whom issued, the number of examinations held and the dates thereof, the facts with respect to accusations filed with the board, of hearings held in connection therewith, and the results thereof; the facts with respect to the prosecution of persons charged with violations of this Act; a full and complete statement of the financial transactions of the board, and such other matters as the board shall see fit to include therein or as the governor may require. The governor may at any time demand a further or supplemental report, and the board shall furnish the same.

Sec. 67-927. **Saving clause.** If any part or provision of this act shall for any reason be adjudged by a court of competent jurisdiction to be invalid, the remainder thereof shall not thereby be invalidated, impaired or affected.

Sec. 67-928. **Repealing clause.** Chapter 11, Sessions Laws 1929, is hereby repealed.

Approved by the Governor - March 15, 1949.

Filed in the Office of the Secretary of State - March 15, 1949.

Effective June 18, 1949.

DENTAL HYGIENE

(Ch. 36—Laws '47)

Section 1. **Definitions.** As used in this Act unless otherwise required by the context:

(a) "the board" shall mean the Arizona state

dental board.

(b) "recognized dental school" shall mean a dental school maintaining standards of entrance, study, and graduation approved by the board as satisfactory.

(c) A person shall be deemed to be practicing as a "dental hygienist" who under any circumstances attempts to or does make dental examination of, or remove lime deposits, accretions or stains from, the exposed surfaces of the teeth of another person.

Sec. 2. Practice without license unlawful. It is unlawful and a misdemeanor for any person to practice dental hygiene in the state of Arizona unless he has obtained a license from the board as in this Act provided.

Sec. 3. Eligibility for examination; application fee. To be eligible for examination a candidate for a license to practice as a dental hygienist must be at least eighteen years of age, of good moral character, a citizen of the United States or an applicant for citizenship, and must present to the board evidence of graduation or certification in a course or curricula in dental hygiene from a dental college, dental infirmary, or any other institution of equal standing, which maintains a course of instruction for dental hygienists equivalent in all respects to similar courses of instruction maintained in recognized dental schools which offer instruction in dental hygiene. Any such candidate shall make written application to the secretary of the board and accompany the same with the examination fee in the amount of twenty-five dollars, which fee shall not be refunded.

Sec. 4. Examinations. The board shall fix a time for the examination of eligible candidates and shall examine such eligible candidates in the subjects included in the standard curricula of the courses of instruction in dental hygiene in recognized dental schools maintaining courses of instruction in dental hygiene, and a practical examination in the removal of deposits from and the polishing of the exposed surfaces of the teeth.

Sec. 5. Issuance of license. Candidates who satisfactorily pass the examination shall be issued by the board a license as dental hygienists. The secretary of the board shall promptly notify the secretary of state of licenses issued.

Sec. 6. Annual registration fee; forfeiture of license; reinstatement. On or before July 1 of each year every licensed dental hygienist shall pay an annual registration fee of two dollars. Failure to pay such annual registration fee shall ipso facto work a forfeiture of license, but upon written application and payment within the fiscal year of such forfeiture, of a fine of five dollars, or if after such

fiscal year, of a fine of ten dollars, the board shall reinstate said license without examination.

Sec. 7. Revocation of license. The dental board may, after hearing as hereinafter provided, revoke the license issued to any person under the provisions hereof for any of the following causes:

1. Physical or mental incompetency to practice his profession.

2. Fraud or misrepresentation in procuring a license.

3. Gross immorality.

4. The habitual use of intoxicating liquors or drugs to such an extent as to render him unfit for practice.

Sec. 8. Employment of dental hygienist by public institution or school. Any licensed dentist, public institution or school authority may employ a licensed and registered dental hygienist, who may remove lime deposits, accretions and stains from the exposed surface of the teeth, but shall not perform any other operation on the teeth or tissues of the mouth. He may operate in the office of any licensed dentist or in any public institution or in the schools under the general direction or supervision of a licensed dentist. No such licensed dentist shall have more than one such hygienist under supervision at one time. But nothing in this article shall be construed as authorizing any dental hygienist to perform any operation in the mouth without supervision.

Sec. 9. Revocation of license of dentist permitting illegal acts by dental hygienist. The board of dental examiners may revoke or suspend the license of any licensed dentist who shall permit any dental hygienist operating under his supervision to perform any operation other than that permitted under the provisions of this article.

Sec. 10. Proceedings for revocation of license. The proceedings upon any accusation for revocation of a license shall be in accordance with section 67-921, Arizona Code of 1939.

Sec. 11. Disposition of revenues. The provisions of section 67-916, Arizona Code of 1939, as amended, shall apply to all fees, fines, and other revenues received by the board under the provisions of this Act.

Sec. 12. Duties of dental board under Act. So far as applicable, the board shall have the same powers and duties in administering and enforcing the Act that it now has under section 67-910, Arizona Code of 1939, in administering and enforcing the Dental Act of 1935.

Effective June 19, 1947.